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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF WASHINGTON

RACHAEL ARBACH,	)	Case No.
	)	
Plaintiff,	)	<b>COMPLAINT</b>
	)	(Negligence/Negligence Per Se/Breach of
v.	)	Contract/Intentional Infliction of Emotional
	)	Distress/Unregister Assumed Business Name)
KEVIN CHRISTOPHER RHODES;	)	
SAFECO INSURANCE COMPANY OF	)	Damages in the amount of \$200,500.00; filing
OREGON,	)	fee per ORS §21.160(1)(c)
	)	
Defendants.	)	<b>NOT SUBJECT TO MANDATORY</b>
	)	<b>ARBITRATION</b>

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**COMPLAINT**

Plaintiff, Rachael Arbach (hereafter “Plaintiff”), through counsel, alleges as follows:

1.

On or about Tuesday, March 26, 2015, in Washington County, Oregon, Plaintiff was injured in a collision directly due to negligence of Defendant Kevin Christopher Rhodes (hereafter “Defendant”) when her vehicle was struck from behind by Defendant.

2.

Plaintiff is an adult resident of Washington County, Oregon.

3.

On information and belief, Defendant is an adult resident of Washington County,

1 Oregon.

2 4.

3 Defendant Safeco Insurance Company of Oregon (“Safeco”), upon information and  
4 belief, was an unknown business entity, with no active business registrations nor assumed  
5 business license registrations in the State of Oregon under the Safeco name. At all relevant  
6 times, Safeco conducted, regular, purposeful, and sustained business activities in Washington  
7 County, Oregon.

8 5.

9 At all relevant times, Safeco did not have a license to sell or issue casualty nor property  
10 insurance in the State of Oregon.

11 6.

12 On or about March 26, 2015, Plaintiff was travelling in her vehicle on Beef Bend Road  
13 in unincorporated Washington County when she was violently rear-ended by Defendant, who  
14 was also driving on Beef Bend Road.

15 7.

16 Plaintiff sustained serious injuries due to the collision with Defendant, and received  
17 medical care directly due to those injuries sustained in the collision with Defendant.

18 8.

19 The subject collision as described in paragraphs 6 to 7 above was solely the result of  
20 Defendant’s negligence and illegal actions.

21 9.

22 As a direct result of the above-described incident, Plaintiff suffered bodily injuries.  
23 Plaintiff’s economic damages, incurred through numerous medical examinations, tests,  
24 evaluations, and other appointments, totaled in excess of \$11,000 to date. She also had to work  
25 additional time at work to make up for the time lost attending medical appointments. Plaintiff

1 is therefore, entitled to economic damages in the amount which a jury determines to be  
2 reasonable, but not to exceed \$25,000.

3 10.

4 As a direct result of the above-described incident and the below described conduct by  
5 Safeco, Plaintiff sustained injuries that caused her pain, anxiety, suffering, emotional distress,  
6 and inconvenience. She also suffered decreased mobility, isolation, and interference with  
7 normal and usual activities. She experienced significant inconvenience having to attend  
8 numerous medical appointments. Plaintiff is, therefore, entitled to non-economic damages in  
9 the amount which a jury determines to be reasonable, but not to exceed \$175,000.

10 11.

11 Plaintiff reserves the right to amend this complaint pursuant to ORS §31.725, including  
12 the addition of punitive damages.

13  
14 **FIRST CLAIM FOR RELIEF**

15 (Negligence against Defendant)

16 12.

17 Plaintiff re-alleges paragraphs 1-11 above as though fully set forth herein.

18 13.

19 Defendant was negligent in one or more of the following particular manners:

- 20 a. In operating the vehicle in an unsafe, unreasonable, careless or indiscriminate  
21 manner without due regard for the safety of others;
- 22 b. In driving while distracted;
- 23 c. In failing to keep a proper lookout for other vehicles and traffic;
- 24 d. In failing to maintain safe and adequate control of his vehicle; and
- 25 e. In failing to comply with the Basic Speed Rule.

1 14.

2 These breaches of duty by Defendant described in paragraph 13 led directly and  
3 foreseeably to the injuries suffered by Plaintiff as described above in paragraphs 9 & 10.

4  
5 **SECOND CLAIM FOR RELIEF**

6 (Negligence Per Se against Defendant)

7 15.

8 Plaintiff re-alleges paragraphs 1 through 14 above as though fully set forth herein.

9 16.

10 Defendant violated one or more of the following *Oregon Revised Statutes* (ORS) in the  
11 following manners:

12 a. In operating the vehicle in a careless manner without due regard for the safety of  
13 others in violation of ORS §811.135; and

14 b. In failing to comply with the Basic Speed Rule as required by ORS §811.100.

15 17.

16 Defendant was at all times material to this lawsuit required to comply with the  
17 foregoing laws enumerated in paragraph 16.

18 18.

19 Plaintiff, as a person directly injured by the collision, was a member of the class  
20 intended to be protected by such laws, and the harms suffered were of the type and kind such  
21 laws were intended to protect against.

22 19.

23 As a direct and foreseeable result of Defendant's conduct, Plaintiff sustained bodily  
24 injuries and other damages as described above in paragraphs 9 & 10.

1 **THIRD CLAIM FOR RELIEF**

2 (Breach of Contract against Safeco)

3 20.

4 Plaintiff re-alleges paragraphs 1-19 above as though fully set forth herein.

5 21.

6 At the time of the collision between Plaintiff and Defendant, Safeco insured both  
7 Plaintiff and Defendant. Despite the requirement of good faith and fair dealing, Safeco's  
8 adjuster for Defendant improperly obtained and used information from Plaintiff that should  
9 have only been used to handle her personal injury protection (PIP) claim. Safeco also then  
10 caused Plaintiff to have to file suit in order to obtain a fair settlement, thus violating ORS  
11 §746.230(1)(f) by failing to promptly and fairly settling the claim. The information shared  
12 between the Safeco divisions was used against Plaintiff in order to reduce the amount offered  
13 to settle Plaintiff's claim.

14 22.

15 Plaintiff either performed or substantially performed all of her duties under the  
16 insurance policy with Safeco.

17 23.

18 Safeco breached the insurance policy, a contract, with Plaintiff by first obtaining  
19 Plaintiff's medical records intended solely for adjusting the PIP claim, and then using those  
20 against her when Plaintiff attempted to settle with Defendant's insurance carrier. This breached  
21 the covenant of good faith and fair dealing, which was a material term to the contract that  
22 Safeco breached, and/or were duties required by law. It has been more than six months since  
23 the bodily injury claim was submitted by Plaintiff to Safeco.

24 24.

25 Plaintiff has suffered damages in an amount to be proven at trial, not to exceed

1 \$25,0000 as a direct and proximate result of Safeco's breaches of contract. Plaintiff is also  
2 entitled to reasonable attorney's fees under ORS §742.061.

3  
4 **FOURTH CLAIM FOR RELIEF**

5 (Intentional Infliction of Emotional Distress against Safeco)

6 25.

7 Plaintiff re-alleges paragraphs 1-24 above as though fully set forth herein.

8 26.

9 Safeco intended to inflict severe emotional distress, or had knowledge such distress was  
10 substantially certain due to its conduct, upon Plaintiff arising out of the claims listed above.  
11 Safeco acted recklessly to protect its own interests at the expense of Plaintiff. These acts by  
12 Safeco were the direct and legal cause of the severe emotional distress suffered by Plaintiff as  
13 outlined above. These acts described above by Safeco constitute an extraordinary transgression  
14 of the bounds of socially acceptable conduct by any insurance company towards its insured,  
15 Plaintiff.

16 27.

17 These intentional actions by Safeco directly caused the emotional injuries to Plaintiff as  
18 described above in paragraph 10.

19  
20 **FIFTH CLAIM FOR RELIEF**

21 (Unregister Assumed Business Name, ORS §648.010 against Safeco)

22 28.

23 Plaintiff re-alleges paragraphs 1-27 above as though fully set forth herein.

24 29.

25 Safeco does not have a current registration on file with the Oregon Secretary of State

1 for either Safeco Insurance Company of Oregon or any name including Safeco and insurance.  
2 Safeco is conducting, transacting, or carrying business in Oregon using these names, which is  
3 in violation of ORS §648.010. Plaintiff is entitled to recover \$500 or actual damages for each  
4 violation. ORS §648.135(2).

5 30.

6 Plaintiff is also entitled to reasonable attorney's fees under ORS §648.135(2) as to each  
7 violation.

8  
9 **DEMAND FOR JURY TRIAL**

10 31.

11 Plaintiff hereby demands a jury trial on all issues.

12  
13 **PRAYER FOR RELIEF**

14 32.

15 **WHEREFORE**, Plaintiff prays for judgment against defendants as follows:

- 16 a) Economic damages in the amount to be determined by the trier of fact to fairly  
17 compensate Plaintiff in accordance with Oregon law, and not to exceed  
18 \$25,000.00;
- 19 b) Non-economic damages in the amount to be determined by the trier of fact to  
20 fairly compensate Plaintiff in accordance with Oregon law, and not to exceed  
21 \$175,000.00;
- 22 c) Statutory damages of \$500.00;
- 23 d) Reasonable attorney's fees under ORS §742.061 for Count 4;
- 24 e) Reasonable attorney's fees under ORS §648.135(2) for Count 5;
- 25 f) Costs and disbursements incurred herein; and

1 g) Other relief as the Court deems just and equitable.  
2

3 Dated: March 20, 2017

Respectfully submitted,

4  
5 **STEVENS & LEGAL, LLC**

6 /s/ Michael O. Stevens

7 Michael O. Stevens, OSB No. 095198  
8 Attorney for Plaintiff

9 Trial Attorney:

10 Michael O. Stevens, OSB No. 095198  
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